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OFFICE OF PETITIONS

In re Application of	:	
Choi, et al.	:	
Application No. 09/888,114	:	DECISION ON PETITION
Filed: June 22, 2001	:	
Attorney Docket No. IMMR032/03US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to nonprovisional application 08/092,974.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." As the petition fee has already been paid, there is no further fee for a renewed petition.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;¹

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference

- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has not included the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s).

Petitioner states that the reference was included in a previously filed preliminary amendment, filed on January 9, 2002. However, a review of the application file does not reveal the presence of this amendment. On renewed petition, petitioner must submit the required reference of the prior-filed application(s).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Charles Pearson
Director
Office of Petitions

(amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).